

**FRUITLAND PARK CITY COMMISSION MEETING MINUTES
SEPTEMBER 11, 2008**

MEETING STATISTICS. A regular meeting of the Fruitland Park City Commission was conducted in the Commission Chambers of City Hall, 506 West Berckman Street, Fruitland Park, Florida on Thursday, September 11, 2008 beginning at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE. Pastor George Mulford of the Grace Bible Baptist Church delivered the invocation followed by the Pledge of Allegiance led by Commissioner Goldberg.

ROLL CALL. Mayor Bell asked City Clerk Diane Gibson Smith to call the roll.

ELECTED OFFICIALS PRESENT. Commissioner John L. Gunter, Jr., Commissioner Sharon Kelly, Vice Mayor Darrel E. Martin, Mayor Christopher J. Bell, and Commissioner Albert O. Goldberg.

MUNICIPAL OFFICIALS/OTHERS PRESENT. City Manager (CM) Ralph O. Bowers, City Treasurer (CT) Elizabeth P. Palmer, Public Safety Director (PSD) J. M. Isom, Sr., Recreation Director (RD) Sherry Bechtel, Library Director (LD) Mary Kay McGuire, Public Works Director (PWD) John Bostic III, and City Clerk (CC) Diane Gibson Smith.

01. PRESENTED CITY CLERK GIBSON SMITH WITH A CERTIFIED PUBLIC MANAGER CERTIFICATE. Mayor Bell presented CC Gibson Smith with a certificate for the Certified Public Manager program through Florida State University.

02. APPROVED MINUTES OF THE REGULAR MEETING. Mayor Bell presented the minutes of the regular Commission Meeting held August 28, 2008 for approval.

Commissioner Kelly moved and Commission Gunter seconded to approve the minutes of the regular Commission Meeting. The motion carried unanimously with all Commission Members voting aye.

03. AGENDA UPDATE – none

04. ADOPTED RESOLUTION 2008-015 ESTABLISHING A TENTATIVE MILLAGE RATE OF 4.36 MILLS FOR FISCAL YEAR 2008-2009 CA Gerken read the Resolution 2008-015 in its entirety, as follows:

**A RESOLUTION OF THE CITY OF FRUITLAND PARK, LAKE COUNTY,
FLORIDA, ADOPTING THE TENTATIVE LEVYING OF AD VALOREM
TAXES FOR THE CITY OF FRUITLAND PARK FOR FISCAL YEAR 2008-
2009; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City of Fruitland Park of Lake County, Florida, on September 11, 2008 adopted Fiscal Year Tentative Millage Rate following a public hearing as required by Florida Statute 200.065; and

WHEREAS, the City of Fruitland Park, Florida, held a public hearing as required by Florida Statute 200.065; and

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WHEREAS, the gross taxable value for operating purposes not exempt from taxation within Fruitland Park has been certified by the County Property Appraiser to the City of Fruitland Park as \$213,273,089.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, FLORIDA that:

1. The Fiscal Year 2008-2009 operating millage rate is 4.4438 mills which represents a 0% increase over last year's rolled back rate.
2. The voted debt service millage is not applicable.
3. This resolution shall take effect immediately upon its final adoption by the City Commission of the City of Fruitland Park, Florida.

PASSED AND RESOLVED at a public hearing this 11th day of September, 2008, at 7:00 p.m. by the City Commission of the City of Fruitland Park, Florida.

Mayor Bell stated this is not a tax increase. Mayor Bell noted a reduction in insurance means the millage can be reduced to 4.36 mills and still have a balanced budget.

CM Bowers stated reducing the millage to 4.36 mills shows the Commission is attempting to help the citizens while still maintaining fiduciary responsibilities.

Commissioner Gunter questioned the amount transferred into fund balance. CT Palmer stated the amount to be transferred into the fund balance will be reduced to \$99,000.

CM Bowers stated next year he will balance the budget to revenues. Additional ways to improve cash flow are also being reviewed for this year.

Commissioner Gunter moved and Commissioner Kelly seconded to adopt Resolution 2008-015 with the tentative millage rate changed to 4.36 mills. The motion carried unanimously with Commissioner Kelly, and Vice Mayor Martin, Mayor Bell, Commissioner Goldberg, and Commissioner Gunter all voting aye.

Mayor Bell stated the proposed millage rate is 4.36 mills. The specific purpose is to fund the programs for the citizens of the city. There was no public comment on the proposed decrease. The tentative millage of 4.36 mills is a decrease of 1.89% over the rolled-back rate of 4.4438 mills. This decrease was due to lower insurance premiums. The tentative millage rate of 4.36 mills will be necessary to fund the budget.

05. ADOPTED PUBLIC RESOLUTION 2008-016 ESTABLISHING A TENTATIVE BUDGET FOR FISCAL YEAR 2008-2009 CA Gerken read Resolution 2008-016 in its entirety.

**A RESOLUTION OF THE CITY OF FRUITLAND PARK, LAKE COUNTY,
FLORIDA, ADOPTING THE TENTATIVE BUDGET FOR FISCAL YEAR
2008-2009; PROVIDING FOR AN EFFECTIVE DATE.**

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WHEREAS, the City of Fruitland Park of Lake County, Florida, on September 11, 2008 held a public hearing as required by Florida Statute 200.065; and

WHEREAS, the City of Fruitland Park, of Lake County, Florida, set forth the appropriations and revenue estimate for the Budget for Fiscal Year 2008-2009 in the amount of \$7,025,637.52.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, FLORIDA that:

1. The Fiscal Year 2008-2009 tentative Budget be adopted.
2. This resolution shall take effect immediately upon its final adoption by the City Commission of the City of Fruitland Park, Florida.

PASSED AND RESOLVED at a public hearing this 11th day of September, 2008, at 7:00 p.m. or as soon thereafter, by the City Commission of the City of Fruitland Park, Florida.

CT Palmer noted the budget amount will be reduced for the final hearing by \$17,000.

Mayor Bell requested public comment. There were no public comments.

Commissioner Goldberg moved and Commissioner Kelly seconded to adopt Resolution 2008-016 with the amended budget number. The motion carried unanimously with Vice Mayor Martin, Mayor Bell, Commissioner Goldberg, Commissioner Gunter, and Commissioner Kelly all voting aye.

Mayor Bell announced the second hearing will be held September 25, 2008 at 7:00 p.m. in the Commission Chambers.

06. CITY ATTORNEY'S REPORT.

a) Discussion regarding request for reimbursement from Spring Lake Cove developers. CA Gerken gave the background of the property. The developer was only required to pay one half of the impact fees upfront, but went ahead and pre-paid impact fees for 179 units. CA Gerken noted the site plan was changed to 144 units from 179 units. The developer is now requesting a refund on the extra units. CA Gerken stated he believes the developer is entitled to the refund. Section 6 and Section 8 of the agreement both refer to refunds. Section 8 states a 90-day window for refunds from the effective date of the agreement – this section was added because they had not purchased the property in advance. The provision in Section 6 is what is applicable. CA Gerken stated the City should refund the units that exceed the approved number.

Mayor Bell reiterated that CA Gerken feels Section 8 does not apply to Section 6. CA Gerken stated yes. He noted Section 8 was added as they had not closed on the property when the agreement was made. Staff requested the developer to reduce the density. The developer could come back to request the additional units if no refund is given.

Vice Mayor Martin questioned if the site plan which was approved keeps them at 144 units with one third reserved for 55 + adults only? Charlie Rector, a concerned citizen, stated only 20 units on the back were reserved for 55 + adults only.

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Mr. Rector stated the developer bought capacity for 179 units and questioned if the developer could go ahead and resell the capacity to whomever. Mr. Rector stated the City should refund the money.

CA Gerken stated the agreement states no assignment can be made. The developer has paid for capacity that will never be used.

Commissioner Gunter questioned if the money can be given back as capacity is sold instead of all at one time. CA Gerken stated he would not recommend that process, but there is nothing in the agreement to prohibit refunding funds as capacity is resold.

Commissioner Kelly noted this is one of the properties that went back and forth a few times. She questioned if the City can keep the \$5,000 retainer for expenses. CA Gerken stated Section 8 was not applicable to this situation, but keeping the \$5,000 retainer is a reasonable condition.

Mayor Bell stated he agrees with Commissioner Gunter to space the refund over two or three years or as capacity is sold.

CM Bowers stated he will ask the developer, but he believes the developer may seek an attorney.

Mr. Rector stated if refunding is delayed, the City will be setting itself up for future problems in obtaining money upfront for agreements.

Vice Mayor Martin questioned if school impact fees are paid on 55 + units. Commissioner Kelly stated yes, unless the developer gets a letter of exemption. CA Gerken stated this development was not formally approved as a 55+ community.

Commissioner Goldberg stated since the developer paid the full amount of the water and wastewater impact fees up front, then the developer should be refunded all the funds for the additional units.

Commissioner Kelly stated the City is selling a product and the developer deserves to get the money back if they don't get the product.

A concerned citizen stated they were told the back buildings would be 55+ only.

Mayor Bell questioned if the money is held in a certain account. CT Palmer stated yes. CT Palmer noted the funds are currently in a money-market account that can be withdrawn at any time.

CM Bowers questioned CA Gerken if the City is entitled to hold the \$5,000 administrative fee. CA Gerken stated he is not sure the City is entitled to those funds, but he could support that condition.

Commissioner Gunter stated he does not have a problem with giving the money back, but he would not like to give it all back at one time. CM Bowers stated the problem with that is, all developers will then want time payments.

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Commissioner Gunter noted the City gives them an option now. Commissioner Gunter suggested asking the developer to see if time payments would be acceptable.

Commissioner Goldberg suggested giving 50% back and work out payments over the next 2 years for the remainder.

Vice Mayor Martin stated he is against the idea, but if the City is going to refund the money, the money should be given back in one payment. He noted iron clad time frames need to be added in the future. CM Bowers agreed.

CT Palmer stated refunding two years after the revenue has been booked makes it difficult to plan. The funds could have been used to pay off debt service.

Commissioner Gunter questioned if there are others who may come back and request a refund. CM Bowers noted Fruitland Estates paid for half of its 50 units. CA Gerken noted usually developers pay part upfront and then the remainder when plat is complete.

Vice Mayor Martin questioned if the City is receiving any revenue from these connections yet. PWD Bostic stated water connections cleared within the past two weeks and sewer has not yet been cleared.

Commissioner Kelly moved and Vice Mayor Martin seconded to refund the money to Spring Lake Cove developers with the exception of \$5,000 for administrative fees. The motion passed unanimously with all commissioners voting aye.

CA Gerken noted the agreement does provide a provision for base facility fee being paid as soon as the connections are available.

b.) Discussion of issue regarding Wick Consulting – CA Gerken stated he and CM Bowers met with three engineers who have worked on the sewer system. The engineers agreed there are problems with the design. CA Gerken stated he is looking for approval to move forward on reviewing to see if claims are possible for this project. The consensus of the Commission was for the CA Gerken and CM Bowers to move forward on this.

c.) Discussion of proposed amendment regarding irrigation – CA Gerken stated he contacted Lake County Attorney Sandy Minkoff who was unaware of the proposed amendment. Lake County Attorney Sandy Minkoff stated this was a St. John's rule. Lake County was proposing a change to the St John's rule to change the wording to prohibit irrigation wells where potable water is available. No action has been taken on it yet.

Mr. Nemecek stated he was recently denied two five inch wells on US Highway 27. Five inch wells will need to have meters installed on them and four inch wells will not be allowed.

07. CITY MANAGER'S REPORT.

a) Discussion and approval of letter agreement with Leesburg regarding the Electric System. CM Bowers stated he is requesting approval of a letter that brings clarity to the electric system purchase with Leesburg. CA Gerken stated there has been a frustrating delay with getting the appraisal. Some of the problem has been the trouble in getting information from Leesburg. This letter brings clarity to the project and continues to allow the Cities to work together.

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Vice Mayor Martin moved and Commissioner Goldberg seconded to approve sending the letter to the City of Leesburg. The motion passed unanimously with all the commissioners voting aye.

b) Discuss proposal for employee health insurance – CM Bowers stated the information was included in the memo. Same coverage at a good price.

c) Discussion regarding the City’s swimming pool – CM Bowers stated looking for ways to lower pool expenses and increase revenues has not been reviewed. CM Bowers stated he would like to give RD Bechtel an opportunity to come up with ideas before making decisions on the future of the pool.

Commissioner Gunter noted grants are available to fill in pools and make them water parks. Some cities have gone that route.

Commissioner Kelly questioned if anyone had spoken with WMCA. RD Bechtel stated she is waiting for a call back from them. WMCA usually charges high prices.

The commissioners all agreed to allow time for RD Bechtel to come up with ways to increase revenues.

d) Major site plan review for Magherio Construction – being delayed. CM Bowers stated this item went to the Zoning Board and has been continued as the plans did not match. The Zoning Board will review on September 18th.

Mr. Nemecek stated he brought in the plans today for the Zoning Board to review. The other plans were preliminary. Mr. Nemecek requested coming back before the Commission on September 25th for approval so he can apply for the building permit by the end of the month. CA Gerken stated the first reading of the rezoning and site plan will be on the September 25th meeting.

Mr. Rector stated citizens expressed concerns about commercial on the back part of the site. The citizens were promised there would be no commercial on the back part of the site when the property was annexed into the City. The property needs to be rezoned first to C-2 to allow the usage before the site plan is approved. CA Gerken stated the final approval will not be given before October 9, 2008 as the rezoning requires two readings.

08. UNFINISHED BUSINESS - none

09. NEW BUSINESS

a) ADOPTED RESOLUTION 2008-017 APPOINTING SCOTT A. GERKEN AS CITY ATTORNEY FOR FY2008-2009 CA Gerken read Resolution 2008-017 as follows:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
FRUITLAND PARK, FLORIDA, APPOINTING A CITY ATTORNEY,
PROVIDING FOR THE TERM OF OFFICE; PROVIDING FOR AN
EFFECTIVE DATE.**

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Commissioner Goldberg moved and Vice Mayor Martin seconded to adopt Resolution 2008-017. The motion passed unanimously with Mayor Bell, Commissioner Goldberg, Commissioner Gunter, Commissioner Kelly and Vice Mayor Martin all voting aye.

b) ADOPTED RESOLUTION 2008-018 APPOINTING DIANE GIBSON SMITH AS CITY CLERK FOR FY2008-2009 CA Gerken read Resolution 2008-018 as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPOINTING A CITY CLERK, PROVIDING FOR THE TERM OF OFFICE; PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Martin moved and Commissioner Goldberg second to adopt Resolution 2008-018. The motion passed unanimously with Commissioner Goldberg, Commissioner Gunter, Commissioner Kelly, Vice Mayor Martin, and Mayor Bell all voting aye.

c) ADOPTED RESOLUTION 2008-019 APPOINTING ELIZABETH P. PALMER AS CITY TREASURER FOR FY 2008-2009 CA Gerken read Resolution 2008-19 as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPOINTING A CITY TREASURER, PROVIDING FOR THE TERM OF OFFICE; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Goldberg moved and Vice Mayor Martin seconded to adopt Resolution 2008-019. The motion passed unanimously with Commissioner Gunter, Commissioner Kelly, Vice Mayor Martin, Mayor Bell, and Commissioner Goldberg all voting aye.

d) INTRODUCED ORDINANCE 2008-015 AMENDING THE LAND DEVELOPMENT REGULATIONS RELATING TO TREE PROTECTION. CA Gerken read Ordinance 2008-015 as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, AMENDING THE LAND DEVELOPMENT REGULATIONS RELATING TO TREE PROTECTION; SPECIFICALLY AMENDING CHAPTER 164 TO, AMONG OTHER THINGS, CLARIFY AND CONFIRM THAT SINGLE FAMILY AND DUPLEX LOTS SHALL BE SUBJECT TO THE LANDSCAPE AND TREE REQUIREMENTS CONTAINED IN CHAPTER 164 OF THE LAND DEVELOPMENT REGULATIONS; PROVIDING FOR REVISIONS TO CHAPTER 100 OF THE CODE OF ORDINANCES RELATING TO TREES TO BE CONSISTENT WITH THE REVISIONS TO CHAPTER 164; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

Commissioner Kelly questioned the origin on this ordinance. CM Bowers stated this ordinance was put together to clarify the current tree ordinance.

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CA Gerken stated this ordinance allows property owners to remove trees within the footprint of a house, but doesn't allow cutting down other trees on the property.

Vice Mayor Martin stated anyone should be able to cut down a tree on their own property regardless of the size.

Mr. Rector stated the problem is with subdivisions where all the trees are removed and small trees are put in after construction. Existing lots should be excluded.

CA Gerken stated this ordinance is hard to read without the entire code. The entire code being revised will be included for second reading.

Mayor Bell suggested returning this ordinance to Planning and Zoning for review. By consensus, the commissioners all agreed to return this item to P & Z.

010. CITIZENS' COMMENTS - none

011. COMMISSIONERS' COMMENTS

a) Vice Mayor Martin – questioned how the engineering for the lift station was coming. CM Bowers stated he has not requested a status report. PWD Bostic stated a meeting is scheduled for next week.

b) Commissioner Gunter – none.

c) Commissioner Kelly – stated she attended the MPO Task Force Meeting, but there is nothing to report.

d) Commissioner Goldberg - none

CM Bowers stated he attended a good meeting with Lake County regarding CR 466A.

Mayor Bell stated he would like to propose reviewing the engineering and perhaps adding a slow moving vehicle trail from The Villages into the City down to cut-off road or perhaps all the way to Dixie. That trail would unlock potential commercial on CR 466A.

Commissioner Gunter questioned if an ordinance is necessary to run slow moving vehicles on City secondary roads. Chief Isom stated high-end slow moving vehicles can be tagged and can run anywhere. Running slow moving vehicles on all roads mean a lot of red tape.

Mayor Bell questioned if streets could be identified as ones that slow moving vehicles could be driven on. Chief Isom stated yes.

Mayor Bell asked if the Commission was in agreement for a slow moving vehicle trail. If in agreement, CM Bowers could speak with Lake County on this idea.

Commissioner Kelly noted the only problem is the County may say there is no money to re-engineer the road.

Chief Isom stated the slow moving trail would be separate from the road. Additional right of way will be needed.

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Mr. Rector noted the Dairy could provide the right of way on that property.

Mayor Bell stated there is a big increase in commercial interest along CR 466A. The Commission agreed to have CM Bowers discuss this idea with Lake County.

012. MAYOR BELL'S COMMENTS. Mayor Bell stated he added a folder on the public drive for the Water Alliance and the Draft Master Trail Plan. Mayor Bell also reviewed the upcoming event dates.

013. ADJOURNMENT. There being no further business to discuss, Commissioner Goldberg moved to adjourn. The meeting adjourned at 8:48 p.m.

Christopher J. Bell, Mayor

Attest:

Diane L. Gibson Smith, CMC, City Clerk